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MAY 14 2004

In re Application of
Kazuyasu Ohashi
Application No. 09/988,793
Filed: November 20, 2001
Attorney Docket No. R2180.0113/P113

OFFICE OF PETITIONS
: DECISION GRANTING PETITIONS
: UNDER 37 CFR 313(c)(2) AND
: 37 CFR 1.137(b)

This is a decision on the petition, filed May 11, 2004, which is being treated both as a renewed petition under 37 CFR 1.137(b) to accept an unintentionally delayed reply and under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The petition under 37 CFR 1.313(c) is **GRANTED**.

As noted in the decision mailed April 26, 2004, this application became abandoned for failure to reply in a timely manner to the Notice of Drawing Inconsistency (Notice) mailed May 30, 2003, which set a period for reply of ONE (1) MONTH from the mail date of the Notice. Extensions of time under the provisions of 37 CFR 1.136(a) or (b) were not permitted. Accordingly, the application became abandoned on July 1, 2003.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply to the Notice amending the drawing figure; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of May 30, 2003 is accepted as having been unintentionally delayed.

As the issue fee has been paid, petitioner now seeks to withdraw this application from issue for consideration of a submission in a Request for Continued Examination pursuant to the provisions of 37 CFR 1.114. Accordingly, the above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114. See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 5, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

The file is being forwarded to Technology Center AU 2873 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).